

REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claims 1-16, 18-19, and 50 are pending in the application, with claims 1 and 50 being independent. Applicant cancels claims 20-34, 37-49, 51-52, and 54-55 without prejudice, waiver, or disclaimer of the subject matter. Claims 17, 35, 36, and 53 were canceled previously. Claims 19 and 50 are amended herein. These revisions introduce no new matter.

Applicant's amendments and remarks after Final are appropriate under 37 C.F.R. §1.116 because they address the Office's remarks in the Final Action, and thus could not have been presented earlier. In addition, the amendments and remarks should be entered because no new issue is raised.

ALLOWABLE SUBJECT MATTER A. AND B.

A. Claims 1-16 and 18-19 are indicated as allowable subject matter. (Office Action, page 19) Applicant thanks the Examiner for indicating that these claims are allowable.

Applicant respectfully requests allowance of claims 1-16 and 18-19.

B. Claim 50 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant thanks the Examiner for indicating that this claim is allowable if rewritten to include all of the limitations of the

base claim and any intervening claims. Applicant appreciates the Examiner's assistance in advancing prosecution of the application.

Applicant amends claim 50 to recite features formerly recited in independent claim 37 from which claim 50 depended. As proposed during the interview, Applicant has structured the inclusion of the features of claim 37 to improve readability and clarity of claim 50. The amendments to dependent claim 50 are purely of form (i.e., dependent format to independent format), and do not change the features formerly recited in dependent claim 50 and independent, base claim 37. Accordingly, claim 37 is cancelled.

Applicant respectfully requests allowance of independent claim 50.

DOUBLE PATENTING

The Office provisionally rejects claim 37 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 44 of copending Application No. 10/419,616.

Applicant cancels claim 37 without prejudice, waiver, or disclaimer of the subject matter, and thus, the rejection is now moot.

§ 101 REJECTIONS

Claims 19 and 37-50 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Applicant cancels claims 37-49 without prejudice, waiver, or disclaimer of the subject matter, and thus, the rejections are now moot.

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends claims 19 and 50 to recite, in part, “computer-readable storage media.” Applicant’s disclosure discusses numerous examples of computer-readable storage media.

The disk drives and their associated **computer-readable media** provide non-volatile **storage** of computer-readable instructions, data structures, program modules, and other data for computing device 702. Although the example illustrates a hard disk 716, a removable magnetic disk 720, and a removable optical disk 724, it is to be appreciated that other types of **computer-readable media which can store data** that is accessible by a computer, such as magnetic cassettes or other magnetic storage devices, flash memory cards, CD-ROM, digital versatile disks (DVD) or other optical storage, random access memories (RAM), read only memories (ROM), electrically erasable programmable read-only memory (EEPROM), and the like, can also be utilized to implement the exemplary computing system and environment.

Applicant’s Disclosure, page 29, lines 3-13; emphasis added

Applicant’s disclosure also discusses communication media.

Computing device 702 can include a variety of computer-readable media identified as communication media. **Communication media** typically embodies computer-readable instructions, data structures, program modules, or other data in a modulated data **signal** such as a carrier wave or other transport mechanism and includes any information delivery media. The term “modulated data signal” refers to a signal that has one or more of its characteristics set or changed in such a manner as to encode information in the signal.

Applicant’s Disclosure, page 29 line 21-page 30 line 2; emphasis added

Applicant amends claims 19 and 50 to recite computer-readable storage media and not communication media.

As agreed during the interview, Applicant respectfully requests withdrawal of the §101 rejections.

§ 102 REJECTIONS

Claims 37 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,317,855 to Fries (“Fries”). Applicant respectfully traverses the rejection.

Without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant cancels **claim 37** without prejudice, waiver, or disclaimer of the subject matter, and thus, the rejection is now moot.

§ 103 REJECTIONS A., B., C., D., E., F., AND G.

A. Claims 20-22, 25, 29-34, 40, and 44-49 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fries in view of U.S. Patent Publication No. 2002/0099818 to Russell et al. (“Russell”). Applicant respectfully traverses the rejection.

Without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant cancels **claims 20-22, 25, 29-34, 40, and 44-49** without prejudice, waiver, or disclaimer of the subject matter, and thus, the rejections are now moot.

B. Claims 23, 24, 26, 28, 38, 39, 41, and 43 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fries in view of Russell further in view of U.S. Patent Publication No. 2003/0191815 to Skaringer et al. Applicant respectfully traverses the rejection.

Without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant cancels **claims 23, 24, 26, 28, 38, 39, 41, and 43** without prejudice, waiver, or disclaimer of the subject matter, and thus, the rejections are now moot.

C. Claims 27 and 42 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fries in view of Russell further in view of U.S. Patent Publication No. 2002/0054071 to Yamaguchi et al. (“Yamaguchi”). Applicant respectfully traverses the rejection.

Without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant cancels **claims 27 and 42** without prejudice, waiver, or disclaimer of the subject matter, and thus, the rejection is now moot.

D. Claim 55 is rejected under 35 U.S.C. §103(a) as being unpatentable over Fries in view of Russell further in view of U.S. Patent No. 5,805,825 to Danneels et al. (“Danneels”). Applicant respectfully traverses the rejection.

Without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant cancels **claim 55** without prejudice, waiver, or disclaimer of the subject matter, and thus, the rejection is now moot.

E. Claim 51 is rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No 5,978,855 to Metz et al. (“Metz”) in view of U.S. Patent Pub No 2002/135215 to Sugimori et al (“Sugimori”). Applicant respectfully traverses the rejection.

Without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant cancels **claim 51** without prejudice, waiver, or disclaimer of the subject matter, and thus, the rejection is now moot.

F. Claim 52 is rejected under 35 U.S.C. §103(a) as being unpatentable over Metz in view of Sugimori further in view of U.S. Patent Publication No. 2002/0054071 to Yamaguchi et al. (“Yamaguchi”). Applicant respectfully traverses the rejection.

Without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant cancels **claim 52** without prejudice, waiver, or disclaimer of the subject matter, and thus, the rejection is now moot.

G. Claim 54 is rejected under 35 U.S.C. §103(a) as being unpatentable over Metz in view of Sugimori further in view of Fries. Applicant respectfully traverses the rejection.

Without conceding the propriety of the rejection and in the interest of expediting allowance of the application, Applicant cancels **claim 54** without prejudice, waiver, or disclaimer of the subject matter, and thus, the rejection is now moot.

CONCLUSION

Claims 1-16, 18-19, and 50 are in condition for allowance as indicated by the last Office Action. **If any issue remains unresolved that would prevent allowance of this case, the Office is requested to contact the undersigned attorney to resolve the issue.**

Respectfully submitted,
Lee & Hayes, PLLC

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